IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION (LODGING) NO.11 OF 2006

In

WRIT PETITION NO.410 OF 2006

The Principal, Government Law College : Petitioner

(Orig.Resp.No.3)

V/s.

Shri Merajkhan Mehboobkhan Pathan & Ors.: Respondents

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Mr.R.M.Sawant, Govt. Pleader for the petitioner.

Mr.S.G.Kudle for respondent No.1.

Mr.R. Rodrigues with Mr.M.D.Naik for respondent Nos.2 & 3.

Mr.R.J.Mane, Asstt. Govt. Pleader, for respondent No.4.

Mr.Rajiv Patil for respondent No.5.

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CORAM : H.L.GOKHALE & A.S.OKA,JJ.

DATE : MARCH 3, 2006.

P.C.

1. Heard Mr.Sawant in support of this Review Petition and the learned counsel appearing for the respective respondents.

2. This Review Petition by the Principal of Government Law College seeks a review of the order passed by us on 2.2.2006.

3. The facts leading to this Review Petition are thus:

Respondent No.1 to this Review Petition, who was the original petitioner, had given his VIth Semester examination in Law in April 2005. Initially, he was declared failed. He applied for revaluation in time. He was informed the result of the revaluation belatedly that he had passed and that the earlier result was a wrong one. The consequence was that whereas the original petitioner would have taken admission for the VIIth Semester in June or July 2005, he was now required to come to the Court for getting admission to the VIIth Semester.

4. When the matter was heard before us, we had specifically asked the learned Asstt. Govt. Pleader appearing for the Government Law College as to whether coaching will be provided for the VIIth Semester now onwards and she made a statement that it will be provided. It was in those circumstances that we passed the order directing the Government Law College to admit the original petitioner to the VIIth Semester.

5. Now this Review Petition is filed by pointing out that it will not be possible for the College to give

coaching for the VIIth Semester as of now. It is stated that it is the VIIIth Semester which is now going on and classes and teachers are now available for the VIIIth Semester. It is on this footing that the Review of the order passed on 2.2.2006 is sought.

6. In view of this peculiar situation, we had asked Mr.Rodrigues appearing for the University of Mumbai to take instructions. Mr.Rodrigues has taken instructions and has tendered before us a copy of the Minutes of the meeting held in the Chamber of the Vice Chancellor on 1.3.2006. The meeting was attended, amongst others, by the Dean of the Faculty of Law, the OSD-cum-Controller of Examinations as also the University Advocate. The Minutes records the following decision of the University:-

> "After considerable discussions, it was unanimously felt that to alleviate the grievance of the Petitioners' (sic) and similarly placed students for the present academic year and keeping in view that the present LL.B. Course is based on Semester Pattern, a student who has passed in revaluation results belatedly, can be admitted in the ongoing Semester, and he

can be subsequently admitted to the earlier Semester of the present academic year in the next academic year. However, after completion of the earlier Semester of this academic year in the next academic year, he can seek admission to the next higher class/Semester, only in the subsequent academic year; i.e. after the conclusion of the academic year in which he obtained admission in the earlier Semester. For example, in one of the cases of the Petitioners', presently he can seek admission to the ongoing VIII Semester, and subsequently he can be admitted to the VII Semester in the academic year 2006-07 and as regards, IX and X Semesters, admission can be granted only in the subsequent academic year 2007-08, on the basis of the relevant A.T.K.T. rules. However, no clubbing of the Semesters for the purpose of admission can be allowed to be done and attendance requirements as per the University Ordinances will have to be adhered to. For future, appropriate measures will have to be considered as per the statutory procedure and the present

arrangement is confirmed only to the ongoing academic year in the Faculty of Law."

The consequence of this decision of the University is that students like the present petitioner will be permitted to join the ongoing semester and they will be allowed to clear the semester which is left out in the subsequent semester. Thus, as far as the present petitioner is concerned, he will be allowed to join the VIIIth Semester now and will be allowed to join the VIIth Semester from June 2006, whether he passes VIIIth Semester at the end of this term or not. As far as IXth Semester is concerned, he will have to wait till June 2007, subject to his passing VIIth or VIIIth Semester or subject to his eligibility under the A.T.K.T. rules.

7. Mr.Kudle, learned counsel appearing for the original petitioner, submits that the petitioner suffers in this process for no fault of his. He had applied for revaluation within the time stipulated for revaluation and although he had, in fact, passed VIth Semester, he was told belatedly that he had passed the same and now he is required to suffer. We could see the agony expressed by Mr.Kudle. We also note the submission of Mr.Rodrigues that a large number of students are appearing for the

examinations and that adequate number of examiners are not available and many of them are, in fact, practising Advocates. We note this difficulty pointed out by Mr.Rodrigues. However we are clearly of the view that this kind of situation should not be repeated. The University must see to it that result of revaluation is declared before the subsequent round of admission starts. If this is not done, the kind of agony suffered by the petitioner will continue in future also. In the circumstances, we direct the University to appoint adequate number of examiners and that too at the earliest on receiving application for revaluation and impress upon them that the revaluation result should be available well in time so that it is provided to the students concerned before the next round of admission starts.

8. Mr.Patil, an office bearer of the Bar Council of Maharashtra is present. He represents the Bar Council of India. He states that the Bar Council has no objection to any such appropriate arrangement inasmuch as its concern is only that the students must complete the concerned course, whether of three years or of five years and, thereafter, on passing all the subjects in all the semesters, they should get the Degree of Law from the University. The other concern of the Bar Council is that the student concerned must have the requisite percentage

of attendance. If the University makes an appropriate arrangement, looking to the practical difficulties in implementing the semester system, the Bar Council does not have anything particular to say.

9. In the circumstances, we allow this Review Petition. We, however, note what we are informed that the College has erroneously taken fees for both the VIIth and VIIIth Semesters together. The College will permit the student to take the courses for the VIIIth Semester as of now. The fees paid by him will be adjusted for the VIIth Semester which is to start in June 2006 and he will not be liable to pay once again for the VIIth Semester. As far as the attendance is concerned, the period which he had not attended because of the late admission will be considered as attended by him for the VIIIth Semester. For the period subsequent to the admission, he will of course have to complete whatever attendance is required.

10. We are told that the last date for filling forms for the Semester examination is over. We are further told that the College has accepted the form and fees for the VIIth Semester. That form will be recalled and the petitioner will be permitted to fill in the form for the VIIIth Semester. We direct the Government Law College to accept the form of the petitioner and forward it to the

University and the University is directed to accept the same. The fee paid for the examination will be adjusted as fees for the VIIIth Semester examination.

11. For future course of action, subsequent to the passing of VIIIth and VIIth Semesters, it will be open to the petitioner to represent to the University. As the decision of the University records, the present arrangement is confirmed only for the ongoing academic year in the Faculty of Law, and that for future, appropriate measures will have to be considered, as per the statutory procedure. We expect the University to act appropriately.

12. The Review Petition stands allowed as above. Our order passed on 2.2.2006 will stand substituted by this order.

H.L. GOKHALE, J.

A.S. OKA, J.